1 EDMUND G. BROWN JR. Attorney General of California 2 GLORIA A. BARRIOS Supervising Deputy Attorney General 3 SCOTT J. HARRIS Deputy Attorney General 4 State Bar No. 238437 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-2554 6 Facsimile: (213) 897-2804 Attorneys for Complainant 7 BEFORE THE BOARD OF REGISTERED NURSING 8 DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 Case No. 2011 - 137 11 In the Matter of the Accusation Against: 12 LORENZO SEBASTIAN BARTOLOME ACCUSATION 10821 Petula Place 13 Cerritos, CA 90703 14 Registered Nurse License No. 519647 15 Respondent. 16 17 Complainant alleges: **PARTIES** 18 Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her 19 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board), 20 Department of Consumer Affairs. 21 On or about February 22, 1996, the Board issued Registered Nurse License Number 22 519647 to Lorenzo Sebastian Bartolome (Respondent). The Registered Nurse License was in full 23 force and effect at all times relevant to the charges brought herein and will expire on December 24 25 31, 2011, unless renewed. 26 ** 27 /// 28 III

JURISDICTION

- 3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
- 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
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- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 6. Section 490 of the Code states:
 - "(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - (b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
 - (c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
 - (d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in Petropoulos v. Department of Real Estate (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a

significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law."

- 7. California Code of Regulations, title 16, section 1444 states:
- "A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:
- (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
 - (b) Failure to comply with any mandatory reporting requirements.
 - (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."
- 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

9. Respondent is subject to discipline pursuant to Code sections 490 and 2761, subdivision (a), in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of a crime substantially related to the qualifications, functions and duties of a Registered Nurse. Specifically, on or about September 16, 2008, in the Superior Court of California, County of Los Angeles, in the case entitled, *The People of the State of California vs. Lorenzo Bartolome*, Case No. 8BF01166, Respondent was convicted on his guilty plea of violating Penal Code section 647, subdivision (a) (solicitation or engaging in lewd or dissolute conduct in public), a misdemeanor. Respondent was placed on summary probation for three (3) years, and among other conditions, was ordered to enroll in and complete 52 sexual compulsive classes.

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SECOND CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, in that Respondent was convicted of a crime involving sexual misconduct, as more fully discussed in paragraph 9 above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 519647, issued to
 Lorenzo Sebastian Bartolome;
- 2. Ordering Lorenzo Sebastian Bartolome to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED:	8/17/10	Louise & Bailey
	1/	LOUISE R. BAILEY, M.ED., RN
		Interim Executive Officer
		Board of Registered Nursing
		Department of Consumer Affairs
		State of California
	•	Complainant

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